

b.) Remarks

Claims 1 and 6 have been amended in order to recite the present invention with the specificity required by statute. Claim 80 has been amended for better format. Accordingly, no new matter has been added.

The Examiner is requesting for certified copies of priority documents JP No. 11-372826 filed PCT application No. PCT/JP00/01148. These documents were filed on August 6, 2003.

The claims remain rejected under 35 U.S.C. §102 as anticipated by Shi (claims 1 and 7-46) and Makino (claims 1 and 6-46), both of record. In support of the rejection, the Examiner notes the references teach cells that differentiate into endothelial cells or cardiomyocytes.

Specifically, Shi shows stem cells, isolated from bone marrow, which differentiate into endothelial cells only. Additionally, Makino discloses a bone marrow-derived cardiomycogenic cell line (CMG) which differentiates into cardiomyocytes only.

In contrast, the multipotential stem cells of the present invention can also differentiate into adipocytes, skeletal muscle cells and osteoblasts. Since neither Shi or Makino discloses or suggests multipotential stem cell having such properties, the rejection should be withdrawn.

Claims 1 and 6-46 are also rejected under 35 U.S.C. §102(b) as being anticipated by Tomita et al. (*Circulation* 100 (Suppl II) 247-256, 1999) and Ferrari et al. (*Science* 279; 1528-1530, 1998), both newly cited.

As relied upon by the Examiner, Tomita “discusses that bone marrow has multipotential progenitor cells.” However, Tomita does not know what these cells are or characterize them, etc. Moreover, at the very least, Tomita does not isolate any such cells. Accordingly, Tomita does not teach the isolated multipotential stem cells of the present invention.


As to Ferrari, the Examiner states the reference discloses “bone marrow derived mesenchymal cells which differentiate into bone, cartilage and lung parenchyma” but, as with Tomita, Ferrari does not even isolate such cells. Accordingly, Ferrari also fails to teach the isolated pluripotent cells of the present invention and these rejections should be withdrawn.

In view of the above amendments and remarks, Applicants submit that all of the Examiner's concerns are now overcome and the claims are now in allowable condition. Accordingly, reconsideration and allowance of this application is earnestly solicited.

Claims 1, 6-63 and 78-91 remain presented for continued prosecution. In this regard, claims 47-63 and 78-91 are withdrawn. While the Office Action notes “a complete reply to the final rejection must include cancellation of non-elected claims or other appropriate action”, each of claims 47-63 and 78-91 depends from the elected claims and recite a method of using the elected invention (claims 47-63 and 78, 80, 82-87 and 91), a composition comprising the elected invention (claim 79 and 88-90 or a method of obtaining the elected invention (claim 81).

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,



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